

# Service Area Plan

## Department of Employment Dispute Resolution

### Employee Grievance, Mediation, Training, and Consultation Services (70416)

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#### Service Area Background Information

##### Service Area Description

EDR implements the Commonwealth's employment dispute resolution statutes. Services include:

- administration of the state employee grievance procedure
- administration of the statewide workplace mediation program
- informing employees and agency management of workplace rights and responsibilities, and available options for preventing, managing and resolving workplace conflict, through a toll-free phone service and other outreach activities
- training on workplace conflict management, mediation, employee discipline and the use of the grievance procedure
- upon request, and on a pilot basis, other early intervention services such as work unit facilitation and conflict coaching
- data collection and reporting on statewide workplace conflict management and resolution activities such as usage of the grievance procedure, mediation, problem-solving consultations, training, and other related services

##### Service Area Alignment to Mission

This service area directly aligns with EDR's mission of providing state employees and agencies with a range of equitable and effective services to prevent, manage and resolve workplace disputes and to remedy employment actions that are contrary to the Commonwealth's human resources policies and related law.

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#### **Service Area Statutory Authority**

EDR's enabling legislation is set forth in Title 2.2, Chapter 10 of the Code of Virginia (Va. Code § § 2.2-1000 and 1001). These provisions mandate EDR to:

- Provide a comprehensive program of employee relations management that includes alternative processes for resolving employment disputes
- Establish and administer the state employee grievance procedure
- Establish and administer a statewide workplace mediation program
- Provide a toll-free telephone number to provide information and guidance to state employees on workplace conflict resolution
- Provide training for agency human resources and supervisory personnel
- Publish hearing officer decisions and Departmental rulings in grievances
- Investigate allegations of retaliation
- Collect data on the use of the grievance procedure and the effectiveness of employee relations management in state agencies
- Make recommendations to the Governor and the General Assembly to improve the grievance procedure and employee relations management.

The State Grievance Procedure is established in Title 2.2, Chapter 30 of the Code of Virginia (Va. Code § § 2.2-3000 through 2.2-3008). These provisions

- Require state agencies to
  - train supervisory personnel in the grievance procedure, personnel policies and conflict resolution, and evaluate supervisors on their effectiveness in employee relations management
  - promote EDR's services and familiarize employees with their grievance rights
  - cooperate with EDR retaliation investigations
  - participate in the mediation program

(Va. Code § 2.2-3000(B))

- Require EDR to monitor the above agency activities with respect to the above duties (Va. Code § 2.2-3000(C))
- Establish state employee coverage and exemptions under the grievance procedure (Va. Code §§ 2.2-3001 and 3002)
- Establish broad parameters for the grievance procedure's management levels and independent hearings, including relief that may be granted by an EDR hearing officer (Va. Code §§ 2.2-3003, 3004, and 3005)
- Establish administrative and judicial review of EDR hearing officer decisions (Va. Code § 2.2-3006)

#### **Service Area Customer Base**

| Customer(s)   | Served | Potential |
|---|--------|-----------|
| Primarily executive branch agencies                                   | 64     | 97        |
| Primarily executive branch employees (approx. number of FTE salaried) | 4,113  | 92,844    |

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#### **Service Area Partners**

##### **Department of Human Resource Management (DHRM)**

EDR provides several employment dispute resolution courses that will be included in the Core Curriculum for DHRM's Managing Virginia Program (MVP), a comprehensive mandatory management and leadership training program for all state supervisors and managers.

EDR has worked with DHRM to ensure that all EDR dispute resolution courses count toward certification for (1) DHRM's Human Resource Institute (HRI) program, which provides Commonwealth human resource professionals with the means to enhance their professional knowledge, skills and abilities; and (2) the Virginia Certified Public Manager (VaCPM) program, a broad-based management development program providing public professionals with training to maximize the effectiveness of government organizations.

EDR is collaborating with DHRM on the development of on-line versions of EDR dispute resolution courses for inclusion in the Commonwealth's Learning Management System (LMS), a central storehouse of training data which will allow Commonwealth employees to engage in remote learning via the internet.

EDR's Training Coordinator serves on DHRM's Virginia Training and Development Advisory Council, which provides recommendations regarding the direction of future training for Commonwealth employees.

EDR is working with DHRM in the development of a comprehensive monitoring and data collection system that will allow the Commonwealth to monitor various aspects of employee relations activities.

EDR presents dispute resolution seminars at annual DHRM-hosted Human Resource Leadership Conferences

#### **Service Area Partners**

##### **University of Virginia School of Law**

EDR refers interested state employees to the University of Virginia School of Law, which provides eligible employees with law student advocates to assist them in presenting their cases at grievance hearings.

#### **Service Area Partners**

##### **Virginia Commonwealth University's Office of Public Policy Training (OPPT)**

EDR has recently been included in OPPT training programs including (1) the Commonwealth Management Institute (CMI), a professional development program for Virginia's mid-level managers; and (2) the Virginia Supervisory Institute (VSI), a training program designed for experienced front-line supervisors in state, federal, and local government.

#### **Service Area Partners**

##### **Virginia Council on Human Resources**

The EDR Director serves as an Ex-officio member of the Virginia Council for Human Resources, an advisory council to the Governor, the Department of Human Resource Management, and EDR on all personnel administration matters, including but not limited to employee relations management and communications.

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#### **Service Area Products and Services**

- Consulting: EDR provides the toll-free AdviceLine, through which all Commonwealth employees, including agency managers, may seek confidential guidance on preventing and resolving workplace conflict, as well as information on employment rights and responsibilities.
- Training: EDR offers a variety of training courses on subjects such as conflict management, mediation, discipline, and the grievance procedure.
- Conflict Coaching: EDR provides conflict coaching, a one-on-one process in which an EDR consultant provides informal, individualized guidance and instruction on improving conflict management skills. (This service is currently provided on a limited, pilot basis only.)
- Group Facilitation: EDR provides group facilitation, which is an early intervention conflict management process. Group facilitation differs from group mediation primarily in that the facilitator takes a more active and directive role in the process. (This service is currently provided on a limited, pilot basis only.)
- Mediation: EDR administers the Commonwealth's workplace mediation program, a voluntary, confidential process through which neutral third parties (mediators) assist employees in conflict with exploring their differences and developing their own solutions to workplace concerns. Mediation occurs between two or more parties, and can be provided to groups of employees.
- Grievance Procedure: EDR manages the Commonwealth's grievance procedure, a process that allows state employees to bring their workplace concerns to the attention of upper management, and in some cases, to present their concerns to an independent hearing officer.
- Employee Relations Data Collection: EDR collects a comprehensive body of employee relations data focusing on workplace dispute prevention and resolution activities within the executive branch.

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#### Factors Impacting Service Area Products and Services

- EDR's staff (13 full-time salaried employees and one temporary, part-time wage employee) is relatively small compared to the total number of state employees. For example, as of June 30, 2004, there were 92,844 full-time equivalent (FTE) salaried state employees in the executive branch, resulting in a ratio of 1 full-time EDR employee to every 7,142 employees.
- Following the severe staffing and funding cuts in 2002, EDR's ability to step aside from daily service delivery responsibilities to review and implement innovations has been limited.
- Many state employees are unaware of EDR and its services, and even if aware, they are reluctant to use these services due to fear of reprisal or negative perception.
- State supervisors and managers are largely untrained in conflict competencies and often uninformed about EDR's neutral role in resolving employment disputes. In addition, managers lack an understanding of the benefit and effectiveness of early dispute resolution processes in resolving disputes and avoiding potential litigation.
- Assuming EDR were able to raise awareness of its services among employees, EDR's ability to provide direct services to a significantly larger number of employees is questionable, given its low staffing levels. Restoration of funding for all or a portion of EDR's three staffing FTEs lost in 2002 would help bridge this gap. Just as important, it will be critical for EDR to take a leadership role in partnering with other state agency training and alternative dispute resolution (ADR) resources, as well as with other public and private sector organizations outside the state, in seeking to develop a range of conflict prevention services for the state's workforce.

#### Anticipated Changes To Service Area Products and Services

- EDR plans to expand the array of early intervention conflict management tools available to Commonwealth employees, for example, through the increased use of facilitation and conflict coaching, now being piloted.
- EDR anticipates providing employees with enhanced opportunities for learning and developing workplace conflict management skills through the use of multimedia training methods, including on-line courses.
- EDR intends to raise the number of employees receiving workplace conflict training by providing increased and more comprehensive training to existing trainers in other executive branch agencies, resulting in a statewide group of "master trainers" in workplace conflict management and dispute resolution.
- The success of the above initiatives will rely upon the degree to which EDR can successfully identify funding and partnering resources within and outside state government.

#### Service Area Financial Summary

EDR's funding comes from general funds (79%) and special funds ( 21%), the latter of which are generated primarily by fees paid by state agency parties to grievance hearings.

|                           | <u>Fiscal Year 2007</u> |                  | <u>Fiscal Year 2008</u> |                  |
|---------------------------|-------------------------|------------------|-------------------------|------------------|
|                           | General Fund            | Nongeneral Fund  | General Fund            | Nongeneral Fund  |
| <b>Base Budget</b>        | \$943,020               | \$251,765        | \$943,020               | \$251,765        |
| <b>Changes To Base</b>    | \$153,352               | \$21,587         | \$132,750               | \$21,587         |
| <b>SERVICE AREA TOTAL</b> | <b>\$1,096,372</b>      | <b>\$273,352</b> | <b>\$1,075,770</b>      | <b>\$273,352</b> |

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## Service Area Objectives, Measures, and Strategies

### Objective 70416.01

***Advance the effectiveness of the state employee grievance procedure in resolving workplace disputes.***

The state grievance statutes charge EDR with establishing and administering the state employee grievance procedure, through which nonprobationary classified employees may bring their employment concerns to upper levels of management, and in some cases, before an independent hearing officer. Va. Code §§ 2.2-1001(2); -3001(A). Importantly, the grievance procedure is to afford "an immediate and fair method for the resolution of employment disputes." Va. Code § 2.2-3000. Through its neutral, independent administration of the grievance process, EDR assures that merit and objectivity are the basis for employment actions, and that the rights and responsibilities of state employees and agency management are observed and affirmed.

In accordance with statute, EDR consultants research, investigate and draft administrative rulings in pending grievances to determine issues such as party and hearing officer compliance with the process, an employee's right to access the grievance procedure, or whether an employee's grievance qualifies to be heard before an independent hearing officer. In addition, EDR hearing officers hold evidentiary hearings and issue written decisions on the merits of qualified employee grievances. If administrative rulings or hearing decisions are issued in an untimely manner, the grievance process and ultimate resolution of the dispute are unduly prolonged, resulting in inefficiencies and frustration for the parties, which in turn can affect the productivity and morale of the involved work unit. For those reasons, it is critical that EDR rulings and hearing decisions are issued in a timely manner.

#### **This Objective Supports the Following Agency Goals:**

- EDR will provide state employees and agencies with a range of equitable and effective services -- including the grievance procedure, mediation, training and consultation.

#### **This Objective Has The Following Measure(s):**

- **Measure 70416.01.01**

***EDR hearing officers will hear and decide grievances within an average of 40 days.***

**Measure Type:** Outcome      **Measure Frequency:** Annually

**Measure Baseline:** 39 calendar days in FY2005; 37 in FY2006

**Measure Target:** 40 calendar days or less

**Measure Source and Calculation:**

For all hearing decisions issued during the fiscal year, calculate the average number of days between the assignment of the hearing officer to a case and the mail date of the resulting hearing decision. Exception: documented continuances granted due to events over which the parties have no control, such as serious illness or death, will not count toward the 40 day period.

Source: EDR hearing database

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- **Measure 70416.01.02**

***EDR staff will investigate and issue grievance rulings within an average of 60 days.***

**Measure Type:** Outcome      **Measure Frequency:** Annually

**Measure Baseline:** 62 calendar days in FY2005, and 44.6 calendar days in FY2006, steadily down from 105 calendar days for the first quarter of FY2003, for a reduction in turnaround time of over 57%.

**Measure Target:** 60 calendar days or less

**Measure Source and Calculation:**

For all rulings issued during the fiscal year, calculate the average number of days between EDR's receipt of the ruling request and the mail date of the ruling. Exception: documented events over which the parties have no control, such as serious illness or death, will not count toward the 60 day period. Source: EDR rulings database

**Objective 70416.01 Has the Following Strategies:**

- Obtain adequate funding to attract and retain well qualified EDR hearing officers and rulings consultants, thus preventing disruptive turn-over
- Currently, the primary job responsibility of EDR's consultants with employment law expertise is to investigate, research and draft rulings. EDR will maintain that strategy to continue the current trend toward reduced turnaround times.
- Continue to provide training opportunities in employment law and related issues for all hearing officers and consultants.
- Continue to direct agencies to provide with their request for a hearing officer all the needed information for assignment of the case
- Immediately upon receiving a request for the appointment of a hearing officer, provide the parties in writing with basic information about the hearing process, including what steps they should consider taking right away to prepare for the hearing
- Assign part-time hearing officers as needed to accommodate periodic case load increases of EDR's two full-time hearing officers

**Objective 70416.02**

***Expand opportunities for state employees to develop knowledge and skills on the prevention and resolution of workplace conflict.***

The grievance statutes mandate EDR to provide a comprehensive program of employee relations management, and specifically includes the requirement of training for state supervisory and human resources personnel in the prevention and resolution of employment disputes. Va. Code § 2.2-1001(8), (9) and -3000(B). Effective learning opportunities can develop and strengthen employee competencies in preventing and resolving workplace conflict, which in turn allows employees to focus on service excellence in their jobs.

EDR's interactive training courses for state employees on conflict management, mediation, employee discipline and the grievance procedure have been overwhelmingly well received by those in attendance. Due to EDR's staffing constraints, however, only a small percentage of employees have received this training to date.

EDR's focus now is to expand learning and development opportunities for state employees in the

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prevention and resolution of workplace conflict, so that more employees will become knowledgeable and skilled in those areas.

#### **This Objective Supports the Following Agency Goals:**

- EDR will provide state employees and agencies with a range of equitable and effective services -- including the grievance procedure, mediation, training and consultation.

#### **This Objective Has The Following Measure(s):**

- **Measure 70416.02.01**

***Employees trained in workplace conflict management and resolution will increase by at least 10%. "Key***

**Measure Type:** Outcome

**Measure Frequency:** Annually

**Measure Baseline:** 1047 state employees trained in FY2005; 2186 in FY2006

**Measure Target:** 10% increase for FY2007 (2405)

**Measure Source and Calculation:**

The number of employees trained will be collected from EDR's instructor-led records and DHRM's LMS training records

- **Measure 70416.02.02**

***At least 90% of participants will rate EDR instructor-led training as an overall 4 or 5 on a 5-point scale.***

**Measure Type:** Outcome

**Measure Frequency:** Annually

**Measure Baseline:** 100% in FY2005; 98% in FY2006

**Measure Target:** 90% or better satisfaction rating

**Measure Source and Calculation:**

Participants in EDR instructor-led training receive and complete an evaluation questionnaire after completing the session. The questionnaire rates various factors, using a 5-point scale, with 5 being the highest rating. The average rating is calculated using these ratings.

#### **Objective 70416.02 Has the Following Strategies:**

- Train state agency trainers on presenting courses on workplace conflict management and the effective use of the grievance procedure (EDR Master Trainers)
- Provide course materials and updated resources to EDR Master Trainers
- Monitor number of agencies and employees trained online and by Master Trainers in addition to EDR instructor-led courses
- Continue to conduct evaluations on EDR instructor-led courses; design evaluative measures for new learning approaches and implement for continual improvement
- Develop on-line courses for statutorily required subjects (e.g., workplace conflict management and the effective use of the grievance procedure)
- Use a variety of methods to communicate with executive branch agencies and their employees about EDR's services for the prevention and resolution of workplace conflict

#### **Objective 70416.03**

***Pilot additional early intervention services to manage and resolve workplace conflict before it escalates.***

One of EDR's statutory mandates is to provide alternative processes for resolving employment disputes,



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including a statewide mediation program. Va. Code § 2.2-1001(1) and (2). Mediation is a voluntary, confidential process through which neutral third parties (mediators) assist employees in conflict with exploring their differences and developing their own solutions to workplace concerns. Mediation occurs between two or more parties, and can also be provided to groups of employees. Key factors to a mediation's success include high quality services made available on a timely basis. Other alternative processes currently being piloted by EDR include conflict coaching and group facilitation. These earlier processes can be quicker and less expensive, and lead to more satisfying results than traditional adversarial processes in which a third party, such as a court or hearing officer, decides the issues rather than the parties themselves.

#### **This Objective Supports the Following Agency Goals:**

- EDR will provide state employees and agencies with a range of equitable and effective services -- including the grievance procedure, mediation, training and consultation.

#### **This Objective Has The Following Measure(s):**

- **Measure 70416.03.01**

***EDR staff will screen and schedule mediations within an average of 17 calendar days.***

**Measure Type:** Outcome      **Measure Frequency:** Annually

**Measure Baseline:** 14 calendar days in FY2005; 13 calendar days in FY2006

**Measure Target:** 17 calendar days or less

**Measure Source and Calculation:**

For all two-party mediations conducted during a fiscal year, we calculate the average number of days between EDR's receipt of the request for mediation and the date that EDR notifies the parties and the mediators of the agreed upon mediation date, time, and place. Source: EDR mediation records

- **Measure 70416.03.02**

***At least 85% of participants will rate the mediation service an overall 4 or 5 on a 5-point scale.***

**Measure Type:** Outcome      **Measure Frequency:** Annually

**Measure Baseline:** 100% in FY2005; 93% in FY2006

**Measure Target:** 85% or better satisfaction rating

**Measure Source and Calculation:**

An evaluation questionnaire is given to each participant in a two-party mediation. The questionnaire covers various aspects of the quality of the mediation using a 5-point scale, with 5 as the highest rating. The average is calculated using these ratings.

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- **Measure 70416.03.03**

*EDR will pilot additional early intervention services to help manage and resolve workplace conflict before*

**Measure Type:** Outcome

**Measure Frequency:**

**Measure Baseline:** EDR provides mediation as its primary early intervention service but discerns a need for new, even earlier intervention processes for state employees. Baseline data will be developed from the utilization of the new services being piloted.

**Measure Target:** EDR will pilot at least two additional early intervention processes (conflict coaching and group facilitation) starting in FY2006 and will generate a report in FY2008 documenting methodology, results, lessons learned, and recommendations for the future.

**Measure Source and Calculation:**

Early intervention pilots that are developed will be documented, implemented, and evaluated.

**Objective 70416.03 Has the Following Strategies:**

- Partner with the Interagency ADR Advisory Council created under the Virginia Administrative Dispute Resolution Act (VADRA) to share state employee mediators who offer their services as part of VADRA's shared neutrals initiative.
- Maintain and augment positive relationships with statewide ADR professional organizations to attract high quality mediation providers.
- Provide additional training to agency employees who refer workplace disputes to EDR's mediation program. This training should expand the knowledge of those making the referrals and help target those disputes most appropriate for mediation.
- Continue to address the needs and concerns of agency mediation coordinators and mediation providers to troubleshoot concerns and provide solutions to any issues that affect our timeliness or customer satisfaction with the service.
- Continue to add new features to the evaluative process to identify ways to develop further the skill base of mediation participants, and to provide more focused assistance with specific employee disputes.
- Identify pilot coaching and group facilitation opportunities, provide and document services, report overall lessons learned and make recommendations for the future.